



Mesmer & Deleault, PLLC
41 Brook Street, Manchester, NH 03104
Seacoast Office: One New Hampshire Ave., Suite 125
Portsmouth, NH 03801



“Tip of the Month”

Patent Term Calculation

Imagine that you have just received official recognition of the novelty of your invention from the United States Patent and Trademark Office in the form of a Patent Grant. Congratulations! Then you notice the fine print on the inside sleeve of the patent grant jacket: “Patent Term Notice” and “Maintenance Fee Notice.” What are they and what do they mean?

The words appear simple, and the dictionary defines “term” as “the time or period through which something lasts” and “maintenance” as “means of upkeep, support, or subsistence... alimony or child support.” Even from the names then, it appears evident that these notices are both related to financial upkeep of your patent while it lasts. However, that is where the plain-speak ends, and the complications arise.

Initially, the calculation of a patent term appears to be quite simple, twenty years from the filing date. However, every country and national state is free to and often does use a different “starting date.” Many patent terms start upon the associated PCT filing date, but the end date can vary based upon a variety of factors.

In the United States, the government grants a patent a longer term if it has been tied up (through no fault of the inventor) either with lengthy regulatory approval process or through delays by the Patent Office itself. However, if the U.S. government feels that the applicant is trying to extend the life of one patent term by filing multiple continuations, the Patent Office may require a terminal disclaimer in a divisional or continuation patent which limits the term of a later patent to the original grant term.

For every country and national state, payment of either annuities or maintenance fees is also required on an annual or semi-annual basis to retain a patent during its full patent term. However, once again, after this point, they each vary: some require annuities before grant, some change the annuity fees after grant, some bundle the annuity fees together for payment every few years, some allow reduced fees in the case of hardships and most increase the fees throughout the life of the patent since statistically most patent values increase throughout their term.

If you have any questions regarding a patent term calculation, annuity fees, or maintenance fees, the patent attorneys at Mesmer & Deleault have the experience and ability to help you. Give us a call today at 603-668-1971 or send an email to mailbox@biz-patlaw.com.

Frank B. Mesmer, Jr.
Robert R. Deleault (USPTO Reg.)
Sarita L. Pickett (USPTO Reg.)



(603) 668-1971
Fax (603) 622-1445
E-mail: mailbox@biz-patlaw.com
Website: www.biz-patlaw.com